

Message Text

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TO SECSTATE WASHDC 1042

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E.O. 11652: N/A

TAGS: PGOV, CA

SUBJECT: NEW BRUNSWICK SUPREME COURT OVERTURNS CONVICTION
OF IRVING COMPANIES.

REF: CONGEN A-80, AUGUST 19, 1974

1. THE APPEALS DIVISION OF THE NEW BRUNSWICK SUPREME COURT HANDED DOWN DECISION ON JUNE 4, 1975 OVERTURNING PREVIOUS CONVICTION BY JUSTICE ALBANY ROBICHAUD OF QUEEN'S BENCH DIVISION OF SUPREME COURT OF NEW BRUNSWICK.

2. THE COURT FOUND NO EVIDENCE THAT DETRIMENT TO THE PUBLIC RESULTED FROM CONTROL OF THE PROVINCE'S FIVE ENGLISH-LANGUAGE DAILIES BY THE IRVING COMPANIES. COURT ALSO FOUND THAT CROWN HAD FAILED TO ESTABLISH EVIDENCE OF ANY LESSENING OF COMPETITION AMONG THE NEWSPAPERS WHICH HAD BEEN "THE ONLY ALLEGATION OF DETRIMENT MADE BY THE CROWN".

3. THE COURT FOUND THAT JUDGE ROBICHAUD HAD IN HIS FINDINGS INTERPRETED THE WORD "MONOPOLY" IN THE USUAL DICTIONARY SENSE OF THE WORD AND HAD NOT TAKEN INTO ACCOUNT THE RESTRICTIVE DEFINITION OF THE COMBINES
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INVESTIGATION ACT WHICH RESTRICTS ITS APPLICATION TO

SITUATIONS WHERE MONOPOLISTIC CONTROL "IS EXERCISED OR
LIKELY TO BE EXERCISED TO THE DETRIMENT OR AGAINST THE
INTEREST OF THE PUBLIC". THE COURT DID NOT FIND THAT THE
IRVING COMPANIES ACTIONS AUTOMATICALLY RESULTED IN
"DETRIMENT IN LAW".

5. ANNOUNCEMENT OF NEW BRUNSWICK COURT ACTION HAS
RECEIVED WIDE MEDIA COVERAGE AND LIKELY TO BE THE BASIS
FOR MUCH COMMENT. IF APPROPRIATE WILL SEND FOLLOW-
UP AIRGRAM.
MANBEY

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NNN

Message Attributes

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